

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

DAVID CINTRON,

Plaintiff,

v.

9:15-CV-0542 (BKS/TWD)

GARY GETTMANN, *et al.*,

Defendants.

Appearances:

David Cintron
Bronx, NY 14060
Plaintiff, pro se

Rachel M. Kish, Esq.
Hon. Eric T. Schneiderman
Office of New York State Attorney General
The Capitol
Albany, NY 12224
Attorney for Defendants

Hon. Brenda K. Sannes, United States District Judge:

MEMORANDUM-DECISION AND ORDER

Plaintiff David Cintron, a former New York State inmate, commenced this civil rights action asserting claims under 42 U.S.C. § 1983 arising out of his incarceration at Upstate Correctional facility. Dkt. Nos. 1 and 14. On October 17, 2016, Defendants filed a motion under Fed. R. Civ. P. 37(b) and 41(b) for sanctions against plaintiff and for dismissal of the complaint for lack of prosecution. Dkt. No. 33. Plaintiff has not responded to Defendants' motion. This matter was assigned to United States Magistrate Judge Thérèse Wiley Dancks who, on May 1, 2017, issued an Order and Report-Recommendation recommending that

Defendants' motion to dismiss be granted, without prejudice. Dkt. No. 35. Magistrate Judge Dancks advised the parties that under 28 U.S.C. § 636(b)(1), they had fourteen days within which to file written objections to the report, and that the failure to object to the report within fourteen days would preclude appellate review. Dkt. No. 35, p. 9. No objections to the Report-Recommendation have been filed.

As no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228-29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee's note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Report-Recommendation is adopted in its entirety.

For these reasons, it is


ORDERED that the Report-Recommendation (Dkt. No. 35) is **ADOPTED** in its entirety; and it is further

ORDERED that Defendants' motion to dismiss (Dkt. No. 33) is **GRANTED** and Plaintiff's Amended Complaint is **DISMISSED**, without prejudice; and it is further

ORDERED that the Clerk serve a copy of this Order upon the parties in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: May 25, 2017


Brenda K. Sannes
U.S. District Judge